

BUREAU OF AUTOMOTIVE REPAIR

SECOND MODIFIED LANGUAGE OF PROPOSED REGULATIONS

STAR PROGRAM

Legend:

Originally proposed changes are shown as underline to indicate additions and ~~strikethrough~~ to indicate deletions.

Modifications to the originally proposed changes are shown as double underlining to indicate proposed additions and as ~~strikethrough of underlined~~ text to indicate originally proposed changes that are being deleted.

Modifications proposed in this second 15-day comment period are shown as double underlining and shading to indicate proposed additions and as ~~double strikethrough and shading~~ to indicate proposed.

Omitted text is indicated by (* * *).*

- (1) Amend Section 3340.1 of Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3340.1. Definitions.

“After repairs test” means a test performed on a vehicle after repairs have been made to that vehicle as a result of failing an inspection at a smog check station.

“ARD-exempt heavy-duty station” means a smog check test-and-repair station or a smog check test-only station that only tests and/or repairs commercial vehicles which have a gross vehicle weight rating of 10,000 pounds or greater.

“Acceleration Simulation Mode” or “ASM” means a type of vehicle emissions test conducted with the test vehicle on a chassis dynamometer to simulate on-road acceleration operating conditions.

“Basic area” or “Basic vehicle inspection and maintenance program area” means the smog check program conducted in any area of the state which is not classified as an enhanced vehicle inspection and maintenance program area.

“Bureau” or “BAR” means the Bureau of Automotive Repair.

“Chassis dynamometer” is a treadmill-like device for a vehicle that is used to simulate on-road acceleration operating conditions.

“Clean piping,” for the purposes of Health and Safety Code section 44072.10(c)(1), means the use of a substitute exhaust emissions sample in place of the actual test vehicle’s exhaust sample of the exhaust emissions of one vehicle in order to cause the EIS to issue a certificate of compliance for ~~another~~ the test vehicle.

“Comparative Failure Rate” or “CFR” means that the station's failure rate, under the Gold Shield Program, must be comparable to the test-only station failure rate for all non-directed vehicles of the same model-year. The station's failure rate, using initial tests, by model-year, of non-directed vehicles is applied to an industry-wide failure rate for test-only stations, calculated quarterly by smog check program area, using initial tests, by model-year, of non-directed vehicles inspected, and includes an allowable deviation to compensate for the random distribution of passing and failing vehicles based upon a 95 percent confidence level. This paragraph shall remain in effect through December 31, 2012.

“Consumer Assistance Program” or “CAP” means a program of the Bureau of Automotive Repair that provides eligible motor vehicle owners the options of Repair Assistance and Vehicle Retirement.

“Dismantler” means an automobile dismantler, as defined in Section 220 of the Vehicle Code and licensed pursuant to Section 11500 of the Vehicle Code, who has contracted with the Bureau to retire vehicles from operation.

“Emissions inspection system” or “EIS” means a tamper-resistant instrument which meets the requirements of subdivision (b) of section 44036 of the Health and Safety Code and which is certified by the bureau for use in the California Smog Check program.

“Enhanced area” or “Enhanced vehicle inspection and maintenance program area” means the smog check program conducted in any part of an urbanized area of the state which is classified by the Environmental Protection Agency as a serious, severe or extreme nonattainment area for ozone or a moderate or serious nonattainment area for carbon monoxide with a design value greater than 12.7 ppm.

“Excessive Test Deviation Rate” occurs under any of the following circumstances in a calendar quarter:

(1) The rate for which the ignition timing test is not performed exceeds the statewide average for similar vehicles where 90% of similar vehicles received the test ~~on vehicles for which it should be performed exceeds the statewide average for similar vehicles.~~

(2) The rate for which the fuel cap test is not performed exceeds the statewide average for similar vehicles where 90% of similar vehicles received the test ~~on vehicles for which it should be performed exceeds the statewide average for similar vehicles.~~

(3) The rate for which the low pressure fuel evaporative test is not performed exceeds the statewide average for similar vehicles where 90% of similar vehicles received the test on vehicles for which it should be performed exceeds the statewide average for similar vehicles.

(4) The rate for which the OBDII inspection is not performed exceeds the statewide average for similar vehicles where 90% of similar vehicles received the test on vehicles for which it should be performed exceeds the statewide average for similar vehicles.

(5) The rate for which inspections are aborted exceeds 125% of the statewide average for similar vehicles on test equipment of the same manufacturer.

(6) The rate for which inspections are restarted exceeds 125% of the statewide average for similar vehicles.

(7) The rate for which vehicles are initially inspected with the maximum allowable number of OBDII readiness monitors unset, as specified in Section 3340.42.2 (b), exceeds 125% of the statewide average for similar vehicles.

“Follow-up Pass Rate” (FPR) means a score assigned to a technician or station that previously certified vehicles. The calculation is based on an evaluation of recent pass rates for those same vehicles in comparison to the pass rate for similar vehicles inspected throughout the state. An FPR score ranges from zero to one, with zero representing the lowest possible score and one representing the highest possible score. The evaluation accounts for factors such as the type of inspection (ASM vs TSI), vehicle odometer reading, time since passing last inspection, and initial test results in the previous cycle. FPR data reports are updated in January and July each year. Stations and technicians with insufficient inspection histories from which to calculate an FPR score may not receive an FPR score.

“Follow-up Pass Rate” (FPR) means a performance measure that evaluates whether vehicles previously certified by each station or technician are passing, in their current cycle, at higher than expected rates. Expected rates are calculated by averaging passing rates for similar vehicles, and then adjusting the rates to account for an individual vehicle’s odometer reading, the type of emissions inspection (ASM or TSI) performed in the current inspection cycle on the vehicle, the amount of time since the last certification for the vehicle, and the initial test results in the previous inspection cycle. An FPR score is assigned to both licensed smog check stations and technicians, and is based on the current inspection cycle test results of vehicles that were previously certified by stations and technicians. An FPR score ranges from zero to one, with zero representing the lowest possible score and one representing the highest possible score. FPR data reports are updated in January and July each year. Stations and technicians with insufficient inspection histories from which to calculate an FPR score will not receive an FPR score.

“Gaseous fuel” means fuel composed of propane, liquefied or compressed natural gas.

“Gear Shift Incident” means an inspection where data from the VID indicates the technician did not follow the gear selection procedure specified in the Smog Check Inspection Procedures Manual that is incorporated by reference in Section 3340.45.

“Gold Shield station” means a registered Automotive Repair Dealer who is also a smog check test-and-repair station which has been certified by the department and meets all the requirements specified in Article 10, of these regulations. This paragraph shall remain in effect through December 31, 2012.

“Heavy duty vehicle” means a vehicle with a manufacturer's gross vehicle weight rating of 8501 pounds or more.

“Household” means a family of persons or any group of two or more unrelated persons that reside together and share common living expenses.

“Implementation area” means a geographical area, in which a local district has requested implementation of a biennial inspection program pursuant to section 44003 of the Health and Safety Code.

“Initial test” means the first Smog Check inspection of a vehicle done in official test mode or pre-test mode and performed within one hundred eighty (180) days prior to a registration renewal date or a change of ownership date for that vehicle. An initial test does not include tests that are aborted before completion or tests done in the training or manual modes of the EIS.

“Non-directed vehicle” means a vehicle that was not required to be inspected at a ~~test-only~~ station pursuant to Sections 44010.5 or 44014.7 of the Health and Safety Code.

“Repair Assistance” means a component of the Consumer Assistance Program (CAP) that provides financial assistance for emissions-related repairs to help eligible motor vehicle owners bring their vehicles into compliance with the requirements of the Smog Check Program.

“Revivable Junk Receipt” means a receipt showing proof that the vehicle is recorded and titled as “junked” by the Department of Motor Vehicles.

“Similar Vehicle Failure Rate” or “SVFR” means a calendar quarter comparison of the initial test failure rate of vehicles at an individual station to the initial test failure rate for similar vehicles inspected statewide, taking into account the vehicle odometer reading, time since passing the last inspection, and initial test results in the previous cycle. Vehicles for which data is not available to adequately establish an initial test failure rate will not be used in the SVFR calculation. This paragraph shall become effective July 1, 2012.

“Similar vehicles” means vehicles with the same Vehicle Lookup Table Row ID, or at a minimum, vehicles with similar the same model-year, make, and model, engine displacement, transmission type or body type.

“Smog check program” or “program” means the motor vehicles inspection program conducted pursuant to section 44005 of the Health and Safety Code, and as hereby described in this article.

“Smog check station” or “station” means a smog check test-only station or smog check test-and-repair station licensed by the bureau in the smog check program.

“Smog check technician” or “technician” means an individual who holds one of the technician licenses specified in section 3340.28 of this article.

“Smog check test-and-repair station” or “test-and-repair station” means a smog check station licensed by the bureau to test, inspect, diagnose and repair vehicles in the smog check program.

“Smog check test-only station” or “test-only station” means a smog check station licensed by the bureau to test and inspect vehicles in the smog check program.

“STAR” means a voluntary certification program that applies to a registered Automotive Repair Dealer that is also a licensed smog check test-and-repair station or a test-only station that meets all requirements specified in Article 10, of these regulations.

“Supervising technician” means the licensed technician that performs the after repairs test of a vehicle that has failed an inspection at a smog check station.

“Technician Information Table” means the bureau’s electronic list of licensed technicians authorized to perform official Smog Check inspections at a specific station.

“Test Deviation” occurs under any of the following conditions:

- (1) The station fails to inspect ignition timing on a vehicle that should receive this test.
- (2) The station fails to perform the fuel cap test on a vehicle that should receive this test.
- (3) The station fails to perform the low pressure fuel evaporative test on a vehicle that should receive this test.
- (4) The station fails to perform an OBDII inspection on a vehicle that should receive an OBDII inspection.
- (5) The station aborts an inspections.
- (6) The station restarts an inspections.
- (7) The station performs an initial inspection on a vehicle with the maximum allowable number of OBDII readiness monitors unset, as specified in Section 3340.42.2 (b).

“Test-only facility station” means a facility smog check station licensed by the department contracted by the bureau to test and inspect vehicles.

“Two-Speed Idle” or “TSI” means a type of vehicle emissions test conducted with the vehicle transmission in neutral or park while the engine is run at two different engine speeds.

“Vehicle Information Database” or “VID” means a centralized computer database and computer network, which is readily accessible by all licensed smog check technicians on a real time basis.

“Vehicle Inspection Report” or “VIR” means an official smog check inspection report that is printed from an emissions inspection system and given to the registered vehicle owner(s) or their legal representative.

“Vehicle Retirement” means a component of the Consumer Assistance Program (CAP) that provides payments to eligible motor vehicle owners who choose to voluntarily retire their vehicles from operation rather than make emissions-related repairs to bring the vehicles into compliance with the requirements of the Smog Check Program.

“VLT Row ID” means the vehicle lookup table row identification number that identifies a vehicle using information about its body type, model-year, make, model, engine displacement, and transmission type.

Note: Authority cited: Sections 44001.5, 44002, 44072.10, 44091 and 44095, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44001.3, 44005, 44010.5, 44011, 44012, 44014, 44014.2, 44014.5, 44017, 44017.1, 44030, 44036, 44037.1, 44056, 44062.1, 44070, 44072.10, 44092, 44093, 44094 and 44103, Health and Safety Code; Sections 220 and 11500, Vehicle Code; and Section 11505, Government Code.

- (2) Amend Section 3340.16 of Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3340.16. Test-Only Station Requirements.

(a) A smog check test-only station operating in other than an enhanced program area shall have all testing equipment and emission application and reference manuals necessary to test and/or inspect all affected vehicles, including the following:

(1) An emissions inspection system, in accordance with the bureau's BAR-97 Emissions Inspection System Specifications as provided in subsection (a) of section 3340.17 of this article.

(2) An ignition timing light, which measures ignition advance.

(3) A hand vacuum pump and a vacuum gauge.

(4) Basic hand tools necessary to inspect vehicle ignition, fuel delivery, and emission control systems.

(5) A device capable of retrieving trouble codes from vehicles with on-board computers, along with instructions on how to extract codes, and definitions of codes found.

(6) The most currently available emission control system application information as contained in any of the nationally distributed and periodically updated manuals that address emission control systems applications; vacuum routing diagrams for all vehicles being tested; electronic component location manuals; and specifications for those functional tests currently prescribed by the bureau.

- (7) The most currently available bureau manuals and bulletins.
- (8) An evaporative emission control inspection system that meets subsections (a) through (h) and (j) of section 2.8 of the emissions inspection system specifications referenced in subsection (b) of section 3340.17 of this Article.
- (9) Low-pressure fuel evaporative test equipment that has been certified by the bureau as compliant with the *Low-Pressure Fuel Evaporative Tester (LPFET) Specifications* dated October 2006 and hereby incorporated by reference. The test equipment shall be maintained and calibrated in accordance with the LPFET Specifications referenced in this paragraph and in accordance with the manufacturer's specifications. Vehicle data low-pressure fuel evaporative test results shall be transmitted to a database specified by the department in accordance with the procedures contained in the LPFET Specifications referenced in this paragraph, which include the form, manner and frequency of data transmittals.
- (b) A smog check test-only station operating in an enhanced program area shall have all of the equipment and materials specified by and conform to the requirements of subsection (a) above, except for paragraphs (1) and (5), and an emissions inspection system in accordance with the bureau's BAR-97 Emissions Inspection System Specifications as provided in subsection (b) of section 3340.17 of this article. A smog check test-only station operating in an enhanced area shall have a tire pressure gauge capable of accurately measuring tire pressure at the specification for the vehicles being tested and inspected using the ASM loaded-mode test procedure.
- (c) A smog check test-only station shall post conspicuously, in an area frequented by consumers, a notice to the effect that the station is licensed to test vehicles only, and cannot make any required diagnosis or repairs to a vehicle which has failed a smog check test.
- (d) A smog check test-only station shall not engage in any automotive repair work.
- (e) Effective through December 31, 2012, No smog check test-only station may refer a consumer vehicle owner to a particular automotive repair dealer or provider of smog check repair services. The test-only station shall make available to each customer a list prepared by the bureau of all smog check stations in that region licensed to make repairs of vehicular emission control systems, which shall include licensed stations certified under the Gold Shield program. Stations and technicians are prohibited from altering or revising the list supplied by the bureau. For the purpose of this subsection, the term "make available" means to grant access to.
- (f) Effective January 1, 2013, no smog check test-only station may refer a consumer to a provider of smog check repair services in which the owner of the test-only station has a financial interest.
- (1) A financial interest includes any ownership in both stations, or any compensation for business referrals by either station including, but not limited to, direct payment, barter agreements, or "quid pro quo" arrangements.

(2) The test-only station shall provide consumers with instructions regarding how to access on the bureau's website an updated list, compiled by region, of stations licensed to make repairs of vehicular emission control systems, including STAR test-and-repair stations.

(fg) Effective through December 31, 2012 Aa smog check test-only station shall not have ownership in, corporate interest in, nor any other financial interest in a smog check test-and-repair station within a geographical radius of 50 statute miles of the test-only station.

(h) A smog check station owned either wholly or partially by the same party(s) that owns a station that provides repair services, which ~~owns a test-and-repair station that is located adjacent to, or in the same business park, strip mall, or industrial complex as the first station,~~ shall not qualify as a test-only station.

Note: Authority cited: Sections 44001.5, 44002, 44013 and 44036, Health and Safety Code; and Section 9882, Business and Professions Code.
Reference: Sections 44010, 44012, 44013, 44014, 44014.5, 44015, 44017.1, 44033, 44036 and 44037.1, Health and Safety Code.

(3) Amend Section 3340.16.5 of Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

3340.16.5. Test-and-Repair Station Requirements.

(a) A smog check test-and-repair station operating in a basic area shall have the equipment and materials specified by, and conform to the requirements of, subsection (a) of section 3340.16 of this article and, in addition, shall have engine diagnostic equipment and repair tools that are capable of diagnosing and repairing engine ignition systems, fuel systems, emission control systems, computer engine control systems, and other related components for each vehicle type that the station diagnoses and repairs. The equipment or repair tools may be separate units, or part of a multi-functional unit. At a minimum, the station shall have the following materials, tools, and equipment:

(1) An ignition analyzer or ignition oscilloscope capable of displaying ignition system operation of vehicles subject to the smog check program. At a minimum, the device shall display:

(A) Primary ignition system voltage and coil oscillations; and

(B) Firing voltage and spark duration of the secondary ignition in either analog or digital form. For distributor-equipped systems, the device shall be capable of displaying this information for all cylinders at the same time.

(2) A compression tester.

(3) A tachometer/dwell meter.

- (4) A fuel pressure gauge capable of measuring the higher pressures of fuel-injected vehicles.
 - (5) A propane enrichment kit.
 - (6) An ammeter capable of measuring amps and milliamps.
 - (7) A high impedance digital volt/ohmmeter.
 - (8) Hand tools necessary to adjust, maintain, and repair vehicular ignition, fuel delivery, and emission control systems.
 - (9) Diagnostic and repair information for all vehicles being tested and repaired. Such information may be in printed or electronic form and may be nationally distributed and periodically updated references that contain repair and emission procedures. These references must be up to date and include current model year supplements for automobile emission control systems. Electronic references shall be provided in printed form upon request from the bureau.
 - (10) The most currently available bureau test and repair manuals.
 - (11) Automotive computer diagnostic and repair manuals.
 - (12) Electronic component location manuals.
 - (13) A device capable of retrieving trouble codes from vehicles with on-board computers, along with instructions on how to extract codes, and definitions of codes. This device shall have the ability to display and store data streams from the on-board computer systems of vehicles. The device shall be On-Board Diagnostic II compliant, and shall have the Enhanced E/E Diagnostic Test Modes capabilities as noted in the Society of Automotive Engineers' document number J2190 dated June 1993. Diagnostic data modules required to operate the device shall be kept updated to the current available calendar year.
- (b) A smog check test-and-repair station operating in an enhanced area shall have all of the equipment and materials specified by, and conform to the requirements of subsection (a) above, and:
- (1) An emissions inspection system in accordance with the bureau's BAR-97 Emissions Inspection System Specifications as provided in subsection (b) of section 3340.17 of this article.
 - (2) An electronic device capable of graphically displaying any electrical or electronic signal used by an automotive computer system. The device shall have the capability of displaying the electrical or electronic signal using a voltage and time scale that is adjustable. The device shall have the capability of capturing and displaying a high frequency abnormal signal, regardless of time per division setting, or screen refresh rate. This device may be a separate unit, or be part of a multifunctional unit that also serves to fulfill one or more of the requirements of subsection (a) above.

(3) A tire pressure gauge capable of accurately measuring tire pressure at the specification for the vehicles being tested and inspected using the ASM loaded mode test procedure.

(c) A smog check test-and-repair station that has accepted a vehicle for inspection shall disclose both orally and in writing on the written estimate provided pursuant to Section 9884.9 of the Business and Professions Code, before the initial inspection of the vehicle, if the vehicle is potentially affected by any of the following conditions:

(1) The station does not have adequate equipment, personnel, tools or reference materials to repair the vehicle, should the vehicle fail its inspection; or

(2) The station, as a matter of policy, does not repair certain types, makes or models of vehicles; or

(3) The station, as a matter of policy, does not repair certain types of vehicle inspection failures.

(d) Effective through December 31, 2012, a smog check test-and-repair station shall not refer a consumer vehicle owner to a particular test-only station for the testing and certification of a vehicle that has been directed to a test-only station for its biennial smog check pursuant to Section 44010.5 and 44014.7 of the Health and Safety Code. Test-and-repair stations shall make available to each customer that presents a test-only directed vehicle for initial testing a list prepared by the bureau of those smog check test-only stations in that region licensed to perform initial tests of, and to certify test-only directed vehicles. Stations and technicians are prohibited from altering or revising the list supplied by the bureau. For the purpose of this subsection, the term “make available” means to grant access to.

(e) Effective January 1, 2013, a smog check test-and-repair station may not refer a consumer to a STAR certified station for the purpose of having the vehicle inspected pursuant to Sections 44010.5 and 44014.7 of the Health and Safety Code, to a STAR certified station in which the owner of the test-and-repair station has a financial interest.

(1) A financial interest includes any ownership in both stations, or any compensation for business referrals by either station including, but not limited to, direct payment, barter agreements, or “quid pro quo” arrangements.

(2) Stations that are not STAR certified shall provide consumers with instructions regarding how to access on the bureau’s website an updated list, compiled by region, of STAR certified smog check stations.

(ef) Effective through December 31, 2012, Aa smog check test-and-repair station shall not have ownership in, corporate interest in, nor any other financial interest in a smog check test-only station within a geographical radius of 50 statute miles of the test-and-repair station.

Note: Authority cited: Section 44002, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44012, 44030(b) and 44036(b), Health and Safety Code.

- (4) Amend Section 3340.41 of Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3340.41. Inspection, Test, and Repair Requirements.

- (a) A licensed station shall give a copy of the test report printed from the emissions inspection system to the customer. The report shall be attached to the customer's invoice.
- (b) No person shall enter into the emissions inspection system any access or qualification number other than as authorized by the bureau, nor in any way tamper with the emissions inspection system.
- (c) No person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested.
- (d) The specifications and procedures required by Section 44016 of the Health and Safety Code shall be the vehicle manufacturer's recommended procedures for emission problem diagnosis and repair or the emission diagnosis and repair procedures found in industry-standard reference manuals and periodicals published by nationally recognized repair information providers. Smog check stations and smog check technicians shall, at a minimum, follow the applicable specifications and procedures when diagnosing defects or performing repairs for vehicles that fail a smog check test.
- (e) Effective through December 31, 2012, Aa smog check station shall not perform an initial test, except for an official pre-test, on or issue a certificate of compliance to any vehicle that has been directed to a test-only station for its biennial smog check pursuant to Sections 44010.5 or 44014.7 of the Health and Safety Code, unless the station is licensed as a test-only station pursuant to subdivision (b) of Section 44014 of the Health and Safety Code. The reinspection and certification of a test-only directed vehicle that has failed an initial test at a test-only station and has undergone subsequent repairs to correct the cause of the failure, may be performed by a test-only station, or by a test-and-repair station that performs those repairs and that is also certified as a Gold Shield station pursuant to Section 44014.2 of the Health and Safety Code and Article 10 (commencing with section 3392.1) of this chapter.
- (f) Effective January 1, 2013, a smog check station may not perform an initial test, except for an official pre-test on any vehicle or issue a certificate of compliance to any vehicle that has been directed to a STAR station for its biennial smog check pursuant to Sections 44010.5 or 44014.7 of the Health and Safety Code, unless the station is certified as a STAR station pursuant to Sections 44014.2 or 44014.5 of the Health and Safety Code. The reinspection and certification of a directed vehicle that has failed an initial test at a STAR station and has undergone subsequent repairs to correct the cause of the failure, shall be performed by a STAR station.

Note: Authority cited: Sections 44002, 44016 and 44030, Health and Safety Code; and Section 9882, Business and Profession Code.
Reference: Sections 44010.5, 44012, 44014, 44014.2, 44014.7, 44016, 44030, 44036(a) and (b), 44050 and 44051.5, Health and Safety Code.

- (5) Amend Section 3392.1 of Article 10, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3392.1. Gold Shield Program (GSP).

This section shall remain in effect through December 31, 2012. The Gold Shield Program is a voluntary program that permits any licensed Smog Check test-and-repair station, which meets or exceeds the standards established pursuant to this article to obtain a certification that may be publicly displayed and otherwise advertised.

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Note: Authority cited: Sections 44001.5, 44002 and 44014.2, Health and Safety Code. Reference: Sections 44002 and 44014.2, Health and Safety Code.

- (6) Amend Section 3392.2 of Article 10, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3392.2. Responsibilities of Smog Check Stations Certified as Gold Shield.

This section shall remain in effect through December 31, 2012.

- (a) Smog Check test-and-repair stations certified as Gold Shield stations shall provide the following services to the public:

* * * *

Note: Authority cited: Sections 44001.5, 44002, 44010.5, 44014.2 and 44095, Health and Safety Code. Reference: Sections 44010.5, 44014, 44014.2 and 44092, Health and Safety Code.

- (7) Add Section 3392.2.1 of Article 10, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3392.2.1. Required services of STAR stations.

This section shall become effective January 1, 2013.

- (a) Both STAR certified test-only and test-and-repair stations shall provide the following services to the public:

(1) The certification of vehicles previously identified as gross polluters.

(2) For STAR stations with a complete BAR-certified Emissions Inspection System capable of performing enhanced area ASM inspections on all vehicles subject to Smog Check pursuant to Sections 44003 and 44003.5 of the Health and Safety Code, irrespective of their program area location, perform the testing and certification of vehicles requiring inspection pursuant to Sections 44010.5 or 44014.7 of the Health and Safety Code.

(3) For STAR stations located in basic or change of ownership program areas that do not perform ASM inspections pursuant to Sections 44003 and 44003.5 of the Health and Safety Code, perform the testing and certification of vehicles registered in enhanced areas only if the vehicles were purchased by a licensed Department of Motor Vehicles motor vehicle dealer, as defined in Section 285 of the Vehicle Code, with the intent of offering the vehicles for sale upon the dealer's premises located in a basic or change of ownership area. STAR stations authorized pursuant to this paragraph may not issue a certificate of compliance to a vehicle that is owned by an entity other than a motor vehicle dealer licensed by the Department of Motor Vehicles.

(b) STAR certified test-and-repair stations shall do the following:

(1) Under the terms and conditions of an agreement executed pursuant to Section 3394.2, offer state subsidized emissions-related repairs as a component of the Consumer Assistance Program established pursuant to Article 11 of this chapter. This paragraph shall apply to those STAR certified stations located in basic and enhanced areas.

(2) Perform all emissions-related repairs in a good and workmanlike manner and in accordance with the procedures specified by the vehicle manufacturer or by repair standards generally accepted by the industry.

(3) Allow bureau personnel reasonable access to the station for the on-site inspection of vehicles while repairs are in progress, or for inspection of repaired vehicles still remaining on the premises. These inspections shall be for the purpose of evaluating the appropriateness and effectiveness of the repairs performed by the station.

Note: Authority cited: Sections 44001.5, 44002, 44010.5, 44014.2 and 44095, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44010.5, 44014, 44014.2 and 44092, Health and Safety Code

(8) Amend Section 3392.3 of Article 10, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3392.3. Eligibility for Gold Shield Certification; Quality Assurance.

This section shall remain in effect through December 31, 2012.

(a) A licensed Smog Check Test-and-Repair station seeking Gold Shield certification shall complete and file a Gold Shield Station Application form (GSR-1 04/25/2003), which is hereby incorporated by reference, and shall, as of the date the application is received by the bureau, meet all of the following eligibility requirements:

Note: Authority cited: Sections 44001.5 and 44014.2, Health and Safety Code. Reference: Section 44014.2, Health and Safety Code.

- (9) Add Section 3392.3.1 of Article 10, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3392.3.1. Eligibility/Performance Standards for STAR Certification.

(a) A licensed Smog Check test-and-repair or test-only station seeking STAR certification shall submit to the bureau a completed STAR Station Certification Application form (STAR-1 07/1/2012), which is hereby incorporated by reference, and shall, as of the date the application is received by the bureau, meet all of the following eligibility/performance standard requirements. Applications for the STAR program that begins January 1, 2013 may be submitted beginning July 1, 2012.

(1) The station's Similar Vehicle Failure Rate (SVFR) in the most recently completed calendar quarter shall be greater than or equal to 75% of the industry-wide failure rate for similar vehicles, as defined in Section 3340.1.

(2) The station shall have no more than 2% of vehicles tested with Gear Shift Incidents in the most recently completed calendar quarter, as defined in Section 3340.1.

(3) The station shall have an Excessive Test Deviation Rate of no more than one in the most recently completed calendar quarter, as defined in Section 3340.1.

(4) The station shall employ, for the purpose of performing smog check inspections and/or smog check repairs, licensed technicians whose FPR scores are greater than or equal to 0.4 in the most recently completed FPR reporting period.

(A) The station is deemed to employ, for the purpose of performing smog check inspections and/or smog check repairs, a licensed technician if that technician is listed in the station's Technician Information Table(s), as defined in Section 3340.1.

(B) If a station employs, for the purpose of performing smog check inspections and/or smog check repairs, a licensed technician who ~~that~~ has not received an FPR score in the most recently completed reporting period, the station may be eligible for STAR certification if the station's FPR score in the most recently completed reporting period is greater than or equal to 0.4 or the station did not receive an FPR score in the most recently completed reporting period and all other eligibility requirements have been met.

(5) ~~The station cannot have received any citations pursuant to Section 44050 of the Health and Safety Code within the preceding one-year period from the effective date of the citation nor employ any licensed Smog Check technician who has received any citations pursuant to Section 44050 of the Health and Safety Code within the preceding one-year period from the effective date of the citation.~~ A station cannot have received a citation which is final and non-appealable.

nor can a station employ any licensed Smog Check technician who has received a citation which is final and non-appealable, within the preceding one-year period from the effective date of the citation for violations of any of the following sections: 44012, 44015 (a) and (b), 44015.5, 44016, and 44032, and 44060 of the Health and Safety Code; and sections 3340.15 (a), 3340.16 (a) and (b), 3340.16.5 (a) and (b), 3340.17, 3340.30 (a), 3340.35, 3340.41 (b), 3340.41 (c), 3340.42, 3340.42.2, and 3340.45 of Division 33, Title 16, California Code of Regulations.

(6) The current or any previous registration or license of the station owner, manager or licensed Smog Check technicians employed by the station, cannot be issued an order of suspension, or a probationary order, or any other disciplinary order within the preceding three-year period from the effective date of the action. No station owner, officer, manager, licensed Smog Check technician or other employee of the station may currently be subject to an order of suspension, or a probationary or any other disciplinary order.

(7) The station owner, manager, licensed Smog Check technicians, or any other employee of the station, may not have been convicted of a crime within the preceding three-year period that is substantially related to the duties of an Automotive Repair Dealer, a licensed Smog Check station, or a licensed Smog Check technician. The station owner, manager, licensed Smog Check technicians, or any other employees of the station, may not have been found liable in a civil proceeding, excluding small claims matters, within the preceding three-year period, for acts or omissions that are substantially related to the duties of an Automotive Repair Dealer, a licensed Smog Check station, or a licensed Smog Check technician. The station owner, manager, licensed Smog Check technicians, or any other employees of the station may not be serving a probationary period as a result of a criminal or civil proceeding substantially related to the duties of an Automotive Repair Dealer, a licensed Smog Check station, or a licensed Smog Check technician.

~~(8) The station or technician may not have engaged in any conduct that would be cause for discipline with respect to the station's Automotive Repair Dealer registration or Smog Check station license.~~

~~(9)~~(8) Compliance with all licensure and license posting requirements.

~~(10)~~(9) Compliance with all estimate, repair order, invoice and record-keeping requirements.

~~(11)~~(10) Physical Possession of, and/or electronic access to, all required manuals and publications.

~~(12)~~(11) Possession of all required tools and equipment and a verification of their proper working order.

~~(13)~~(12) A STAR certified station shall display an exterior sign, directly below the sign described in section 3340.22, which meets the following specifications:

(A) The dimensions of the sign shall be 24 inches wide and 5 1/4 inches high.

(B) The sign shall be made of 0.040-inch aluminum, steel, or plastic.

(C) The bureau shall supply a camera-ready design and content of the sign.

~~(14)~~(13) The station may not have had its STAR certification invalidated within the last six months.

(b) A licensed Smog Check test-only or test-and-repair station seeking STAR certification shall be informed in writing or by electronic mail, of the bureau's decision that the station meets the eligibility requirements for certification or the application is deficient.

Note: Authority cited: Sections 44001.5 and 44014.2, Health and Safety Code, and Section 9882, Business and Professions Code. Reference: Section 44014.2, Health and Safety Code.

(10) Add Section 3392.4 of Article 10, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3392.4. STAR Program Evaluations.

This section shall become effective January 1, 2013.

(a) All STAR certified stations shall continue to meet the criteria established pursuant to Section 3392.3.1 (a).

(b) The bureau may conduct a physical inspection of the STAR station to ensure compliance with the requirements established in Section 3392.3.1 (a)(98)-(1413).

(c) The STAR program evaluation may be viewed on the bureau's online website.

Note: Authority cited: Section 44001.5, Health and Safety Code. Reference: Section 44014.2, Health and Safety Code.

(11) Amend Section 3392.5 of Article 10, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3392.5. Causes for Invalidation of Gold Shield Station Certification.

(a) Effective through December 31, 2012, it shall be cause for the Bureau to invalidate the certification of a Gold Shield station, temporarily or permanently, if any of the following occur:

(1) The Gold Shield station, manager or Smog Check technicians employed by the station, engage in any conduct which violates any provision of this article or which would be cause for discipline of, or which would be cause for issuance of a citation to the station's Automotive Repair Dealer registration or Smog Check station license, or the license of a technician employed by the station.

(2) The Gold Shield station's Automotive Repair Dealer registration or Smog Check station license expires or otherwise becomes delinquent.

(3) The bureau disciplines the Gold Shield station's Automotive Repair Dealer registration or Smog Check station license in any form or manner.

(4) The Gold Shield station fails or is unable to provide the services specified in section 3392.2(a).

(5) The Gold Shield station, if located in other than an enhanced area, issues a certificate of compliance to a vehicle registered in an enhanced area that is required to have an enhanced area test if the vehicle is owned by an entity other than a motor vehicle dealer licensed by the Department of Motor Vehicles, unless the station performed an enhanced area test as prompted by the Emissions Inspection System.

(6) The Gold Shield station fails to comply with the certification criteria specified in paragraph (a)(1), (2) or (3) of Section 3392.3 for two consecutive calendar quarters.

(7) The Gold Shield station fails to correct a deficiency identified in a quality assurance inspection within the specified time period.

(b) Effective January 1, 2013, all existing Gold Shield certifications will expire. All stations choosing to participate in the STAR program that takes effect January 1, 2013, may apply for certification pursuant to Section 3392.3.1.

Note: Authority cited: Sections 44001.5 and 44014.2, Health and Safety Code. Reference: Sections 44014.2 and 44037.1, Health and Safety Code; and Sections 480 and 490, Business and Professions Code.

(12) Add Section 3392.5.1 of Article 10, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3392.5.1. Causes for Invalidation of STAR Station Certification.

This section shall become effective January 1, 2013.

(a) It shall be cause for the bureau to invalidate the certification of a STAR station if any of the following occur:

(1) The STAR station, manager, or any licensed technician employed by the station is issued receives an order of suspension, probationary order, or a citation, that is final and non-appealable for violations of any of the following sections: 44012, 44015 (a) and (b), 44015.5, 44016, and 44032, and 44060 of the Health and Safety Code; and sections 3340.15 (a), 3340.16 (a) and (b), 3340.16.5 (a) and (b), 3340.17, 3340.30 (a), 3340.35, 3340.41 (b), 3340.41 (c), 3340.42, 3340.42.2, and 3340.45 of Division 33, Title 16, California Code of Regulations., engage in any conduct which violates any provision of this article or which would be cause for discipline of, or which would be cause for issuance of a citation to the station's Automotive Repair Dealer

registration or Smog Check station license, or the license of a technician employed by the station.

(2) The STAR station's Automotive Repair Dealer registration or Smog Check station license expires or otherwise becomes delinquent.

(3) ~~The STAR station's Automotive Repair Dealer registration, Smog Check station license, or the license of any technician employed by the station, is disciplined by the bureau in any form or manner.~~ The station owner, manager, licensed Smog Check technicians, or any other employee of the station, may not have been convicted of a crime within the preceding three-year period that is substantially related to the duties of an Automotive Repair Dealer, a licensed Smog Check station, or a licensed Smog Check technician. The station owner, manager, licensed Smog Check technicians, or any other employees of the station, may not have been found liable in a civil proceeding, excluding small claims matters, for acts or omissions that are substantially related to the duties of an Automotive Repair Dealer, a licensed Smog Check station, or a licensed Smog Check technician. The station owner, manager, licensed Smog Check technicians, or any other employees of the station may not be serving a probationary period as a result of a criminal or civil proceeding substantially related to the duties of an Automotive Repair Dealer, a licensed Smog Check station, or a licensed Smog Check technician.

(4) The STAR station fails to comply with any of the certification criteria specified in Section 3392.3.1 (a)(1)-(3) for two consecutive calendar quarters.

(5) The STAR station continues to employ, for the purpose of performing smog check inspections and/or smog check repairs, a licensed technician whose FPR score in the most recently completed FPR reporting period is less than 0.1. A smog check station may choose to have the bureau automatically remove technicians not meeting this requirement from each of the station's EIS Technician Information Tables.

(6) The STAR station continues to employ, for the purpose of performing smog check inspections and/or smog check repairs, a licensed technician who did not receive an FPR score in the most recently completed reporting period and the station's FPR score in the most recently completed FPR reporting period is less than 0.1.

(7) The STAR station hires, for the purpose of performing smog check inspections and/or smog check repairs, a licensed technician whose FPR score in the most recently completed FPR reporting period is less than 0.4.

(8) The STAR station has an FPR score of less than 0.4 and hires, for the purpose of performing smog check inspections and/or smog check repairs, a licensed technician who did not receive an FPR score in the most recently completed FPR reporting period.

(9) The STAR station fails or is unable to provide applicable services specified in Section 3392.2.1.

(10) The STAR station, if located in a basic or change of ownership area, fails to perform an ASM test and issues a certificate of compliance to a vehicle registered in an enhanced area that is owned by an entity other than a motor vehicle dealer licensed by the Department of Motor Vehicles and located in an enhanced area.

(b) The STAR station may, upon ten (10) days written notice to the bureau, withdraw from the STAR program.

(c) If a station's STAR certification is invalidated or the station withdraws from the STAR program, the station may not perform the services pursuant to Section 3392.2.1 (a)(1)-(3) and (b)(1).

Note: Authority cited: Sections 44001.5 and 44014.2, Health and Safety Code, and Section 9882, Business and Professions Code. Reference: Sections 44014.2 and 44037.1, Health and Safety Code; and Sections 480 and 490, Business and Professions Code.

- (13) Amend Section 3392.6 of Article 10, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3392.6. Gold Shield Program Hearing and Determination.

Effective through December 31, 2012, If the bureau denies an application for Gold Shield certification or if the bureau invalidates, temporarily or permanently, an existing Gold Shield station's certification, the bureau shall file and serve a written notice of denial or invalidation. The written notice shall contain a summary of the facts and allegations which form the cause or causes for denial or invalidation.

* * * *

Note: Authority cited: Sections 44001.5 and 44014.2, Health and Safety Code. Reference: Section 44014.2, Health and Safety Code; and Section 124, Business and Professions Code.

- (14) Add Section 3392.6.1 of Article 10, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3392.6.1. STAR Program Hearing and Determination.

Effective January 1, 2013, if the bureau finds cause to invalidate the certification of an existing STAR station, the bureau shall file and serve a notice in writing or by electronic mail to the station. The notice shall contain a summary of the facts and allegations which form the cause or causes for invalidation.

(a) Service of the notice may be given in any manner authorized by Business and Professions Code Section 124.

(b) If a written or electronic request for a hearing is received within five (5) days from the date of service, a hearing shall be held as provided for in (c) below.

(c) The bureau shall hold a hearing within ten (10) days of the date on which the bureau received a timely request for a hearing. The bureau shall notify the STAR certified station or representative of the time and place of the hearing. The hearing shall be limited in scope to the time period, facts, and allegations specified in the notice prepared by the bureau.

(d) The STAR certified station shall be notified of the determination by the chief, or the chief's designee, who shall issue a decision and notify the applicant or STAR station within 10 days of the close of the hearing.

(e) The STAR station may request an administrative hearing to contest the decision of the chief within 30 days of the date of the determination by the chief, or the chief's designee.

Note: Authority cited: Sections 44001.5 and 44014.2, Health and Safety Code. Reference: Section 44014.2, Health and Safety Code; and Section 124, Business and Professions Code.